

Belvedere:
Jerry Butler

April 28, 2005

Corte Madera:
Melissa Gill

TO: Transportation Authority of Marin Commissioners

Fairfax:
Lew Tremaine

RE: Highway 101 Carpool Lane Gap Closure Project Measure A Allocation, Financial Contribution Agreement Amendment, Approval of the Use of STP, CMAQ, and Measure A Funds for Project Construction until TCRP Funds are Available

Larkspur:
Joan Lundstrom

Dear Commissioners:

Mill Valley:
Dick Swanson

Novato:
Pat Eklund

Ross:
Tom Byrnes

San Anselmo:
Peter Breen

San Rafael:
Al Boro

Sausalito:
Amy Belser

Tiburon:
Alice Fredericks

County of Marin:
Susan Adams
Hal Brown
Steve Kinsey
Charles McGlashan
Cynthia Murray

As reported last month, the Highway 101 Carpool Lane Gap Closure project was fully funded in September 2000 with the inclusion of Transportation Congestion Relief Program funds. However, due to the fiscal crisis in the State Highway Account and increased right-of-way acquisition costs, Segment 3 (Central San Rafael) and Segment 4 (Puerto Suello Hill) now have a funding shortfall. Project STIP funds programmed for FY 05/06 are now not expected to be available until FY 06/07 at the earliest. \$12,249,000 of the \$15,000,000 in Traffic Congestion Relief Program (TCRP) funds remain unallocated and are not expected to be available for several years. In addition, R/W acquisition costs have been higher than originally estimated by Caltrans, with an estimated shortfall of \$10,000,000. The latter cost is estimated by Caltrans to be fully recovered by TAM in future excess land sales (approximately \$5,000,000 from the Central San Rafael Segment returned by the end of 2006; and approximately \$5,000,000 from the Puerto Suello Hill Segment returned by 2009).

In December 2004, MTC programmed \$10,000,000 in STP/CMAQ funds for the project as a backfill for the TCRP funds. In February 2005, MTC proposed to program an additional \$21,300,000 in STP/CMAQ funds for this project, scheduled for approval by MTC on April 27, 2005.

Last month, TAM provided approval to amend Exhibit A of the Financial Contribution Agreement with Caltrans (District Agreement No. 4-1938-C) to add \$10,000,000 in STP/CMAQ funds for right-of-way and was informed of a pending Measure A allocation for construction. With the further funding additions, staff has worked with Caltrans to amend the original agreement (Amendment No. 1) to include all the recent funding changes as follows:

- Document added \$10,000,000 in STP/CMAQ funds for right-of-way.
- Add \$21,300,000 in STP/CMAQ funds for construction.
- Add \$10,050,000 in Measure A sales tax funds for construction.

The above actions are anticipated to fully fund Segment 3 (Central San Rafael) and allow for a January 2006 construction start date.

Staff also worked with MTC and Caltrans to submit a TCRP application amendment to the CTC transferring the project lead agency designation from Caltrans to TAM. This amendment is needed so that TAM can submit a Letter of No Prejudice request and reserve the right to claim the TCRP reimbursement should those funds become available at a future date. Caltrans will submit the amendment for notice at the May 2005 CTC meeting.

Recommendation

Staff recommends the following:

1. Approve Resolution 2005-03, authorizing the Chairman to execute Amendment No. 1 to the existing Financial Contribution Agreement (District Agreement No. 4-1938-C), executed January 29, 2004, allocating \$10,050,000 in Measure A sales tax funds for project construction costs. *(Note: Staff is working with Caltrans to finalize the Amendment. It will be provided under separate cover as soon as possible.)*
2. Approve Resolution 2005-04, committing the use of local funds for project construction costs until TCRP reimbursement becomes available.

Respectfully Submitted,

Craig Tackabery
Executive Director

Attachments:

- 1) Resolution 2005-03, authorizing the Chair to execute Amendment No. 1 to existing Financial Contribution Agreement (District Agreement No. 4-1938-C), executed January 29, 2004, allocating \$10,050,000 in Measure A sales tax funds for project construction.
- 2) Resolution 2005-04, approving the use of STP, CMAQ, and Measure A sales tax funds for project construction until TCRP reimbursement is available.
- 3) Draft AB 1335 Letter of No Prejudice Request

RESOLUTION 2005-03

**RESOLUTION OF THE TRANSPORTATION AUTHORITY OF MARIN (TAM)
AUTHORIZING THE CHAIRMAN TO EXECUTE AMENDMENT NO. 1 (DISTRICT
AGREEMENT NO. 4-1938-A1) TO FINANCIAL CONTRIBUTION AGREEMENT NO. 4-
1938-C REGARDING THE CONTRIBUTION OF FUNDS FOR THE HIGH
OCCUPANCY VEHICLE LANES ON U.S. HIGHWAY 101 AND ALLOCATING
\$10,500,000 IN SALES TAX FUNDS FOR PROJECT CONSTRUCTION**

WHEREAS, the State Department of Transportation intends to provide high occupancy vehicle lanes on U.S. Highway 101; and

WHEREAS, the improvement is needed to facilitate traffic flows and to improve safety; and

WHEREAS, on January 29, 2004, the State Department of Transportation and TAM entered into Financial Contribution Agreement No. 4-1938-C documenting TAM's financial participation in the project; and

WHEREAS, changes in available federal, state, and local funding have necessitated the revision of the Financial Contribution Agreement; and

WHEREAS, TAM has agreed to commit Measure A sales tax funds to the construction of the project;

NOW, THEREFORE, BE IT RESOLVED that the Transportation Authority of Marin does hereby approve Amendment No. 1 (District Agreement No. 4-1938-A1) to Financial Contribution Agreement No. 4-1938-C for the construction of high occupancy vehicle lanes on U.S. Highway 101, allocating \$10,050.000 in Measure A sales tax funds to the construction of the project, and the Chairman is hereby authorized to execute the herein described Cooperative Agreement on behalf of TAM.

PASSED AND ADOPTED at a regular meeting of the Transportation Authority of Marin, on the 28th day of April, 2005 by the following vote to-wit:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

STEVE KINSEY, CHAIR
TRANSPORTATION AUTHORITY OF MARIN

ATTEST:

Craig Tackabery
Executive Director

RESOLUTION NO. 2005-04

**A RESOLUTION OF THE TRANSPORTATION AUTHORITY OF MARIN
APPROVING THE USE OF STP, CMAQ, AND MEASURE A TRANSPORTATION
FUNDS FOR THE HIGHWAY 101 CARPOOL LANE GAP CLOSURE PROJECT UNTIL
TCRP REIMBURSEMENT IS AVAILABLE**

WHEREAS, the voter-approved Measure A Transportation Sales Tax Expenditure Plan listed the Highway 101 Carpool Lane Gap Closure Project through San Rafael (hereafter "PROJECT") as a priority; and

WHEREAS, the PROJECT includes \$15,000,000 for Construction in State Transportation Congestion Relief Program (TCRP) funds, of which \$12,249,000 have not yet been allocated and cannot be allocated due to State budgetary constraints; and

WHEREAS, State Statute AB 1335 establishes a mechanism to allow projects to proceed if alternate funds are available, without prejudicing future State dollars, through a "Letter of No Prejudice;"

NOW, THEREFORE, BE IT RESOLVED that TAM does hereby demonstrate its commitment to use \$12,249,000 in additional STP, CMAQ, and Measure A transportation funds needed to replace the TCRP funds, until and unless TCRP funds become available, as shown in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Transportation Authority of Marin, on the 28th day of April, 2005 by the following vote to-wit:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

STEVE KINSEY, CHAIR
TRANSPORTATION AUTHORITY OF MARIN

ATTEST:

Craig Tackabery
Executive Director

Belvedere:

Jerry Butler

April 28, 2005

Corte Madera:

Melissa Gill

DRAFT

Fairfax:

Lew Tremaine

Ms. Diane C. Eidam
Executive Director
California Transportation Commission
1120 N Street, MS 52
Sacramento, CA 95814

Larkspur:

Joan Lundstrom

Mill Valley:

Dick Swanson

Mr. Eric Koch
TCRP Program Chief
State of California
Department of Transportation
1120 N Street, MS 49
Sacramento, CA 95814

Novato:

Pat Eklund

Ross:

Tom Byrnes

**Subject: AB 1335 Request (Letter of No Prejudice Authority)
TCRP Project No. 17 – Route 101 HOV Lane Gap Closure**

San Anselmo:

Peter Breen

Dear Ms. Eidam and Mr. Koch:

San Rafael:

Al Boro

Sausalito:

Amy Belser

Tiburon:

Alice Fredericks

County of Marin:

*Susan Adams
Hal Brown
Steve Kinsey
Charles McGlashan
Cynthia Murray*

The Transportation Authority of Marin (TAM) is requesting AB 1335 Letter of No Prejudice Authority for Traffic Congestion Relief Program (TCRP) Project No. 17 – the Route 101 HOV Lane Gap Closure Project. We are requesting this AB 1335 authority at the May 2005 California Transportation Commission (CTC) meeting so that the project can proceed to Phase 4 (construction) with local funds. With the requested authority, we would seek reimbursement for these activities as soon as TCRP funds become available. This request is made in accordance with the CTC Guidelines for Letter of No Prejudice approved on August 14, 2003.

The subject project was included in the TCRP for its potential to promote traffic congestion relief. TAM has maintained our commitment to this project by adding local funding to the project and requesting the AB 1335 authority so we can continue with project delivery on schedule. The project has completed the Project Reports and Environmental Documents phase. The PS&E phase will be done by June 2005, with right of way certification anticipated for June 2005 as well. Construction is scheduled to start in January 2006 and be completed by the end of 2008.

The LONP request is for Phase 4 (construction). The final EIR/EIS was received in August 2000.

The project schedule is detailed below:

TAM Staff Report

April 28, 2005

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Schedule		
Phase of work	Start	End
1. Environmental	07/1996	08/2000
2. P.S.& E.	09/2000	06/2005
3. Right of Way	11/2000	06/2005
4. Construction	01/2006	12/2008

The project funding package is detailed below: (\$ x 1,000)

Source	Phase 1	Phase 2	Phase 3	Phase 4	Total
TCRP				\$15,000	\$ 15,000
STIP-RIP	\$ 2,748	\$ 516	6,000	\$22,686	\$ 31,950
STIP-RIP Grandfathered	\$ 1,245	\$ 5,004	\$ 5,483	\$26,516	\$ 38,248
STIP-IIP	\$ 1,200			\$ 7,000	\$ 8,200
CMAQ			\$29,876	\$ 27,424	\$ 57,300
DEMO			\$5,250		\$ 5,250
Measure A				\$10,050	\$10,050
Total:	\$ 5,193	\$ 5,520	\$46,609	\$108,676	\$165,998

Of the original TCRP amount of \$15,000,000, none has been allocated. The unallocated balance of \$15,000,000 is the amount of AB 1335 authority requested under this LONP request. The local source of funds identified to be used in place of the TCRP funds is a combination of STP, CMAQ and Measure A funds. TAM intends to seek reimbursement of these funds at the first available opportunity.

If you have any questions regarding this request, please contact Craig Tackabery at (415) 499-6582. Thank you for your assistance in this matter.

Sincerely,

Craig Tackabery
Executive Director

Cc: Peter Anderson, Caltrans HQ
Jit Pandher, Caltrans District 4
Ross McKeown, MTC